



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

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OFFICE OF
REGIONAL COUNSEL

MAR -7 2014

Ms. J. Page Turney
U.S. Department of the Navy
Office of General Counsel
720 Kennon Street, S.E.
Bldg. 36, Rm. 233
Washington, DC 20374-5013

Re: Gorst Creek Landfill, Port Orchard, Washington

Dear Ms. Turney:

The U.S. Environmental Protection Agency, Region 10 (EPA) recently completed an engineering evaluation and cost analysis for the Gorst Creek Landfill located in Port Orchard, Washington (Site), and is preparing to take action necessary to address conditions at the Site that may present an imminent and substantial danger to public health or the environment. The unpermitted landfill in Gorst Creek ravine presents a serious structural threat to the surrounding area, including Washington State Route 3, and continues to release hazardous substances, pollutants and contaminants to the downstream environment.

The EPA first notified the Department of the Navy of its liability at the Site in a letter dated December 24, 2009, and at your request provided documentation supporting this determination of liability in a letter dated February 11, 2010. The Navy asserted in response that the extent of its liability, if any, has not been established. However, there appears to be no disagreement that the Navy contracted to dispose of waste at the Site, and that waste from the Puget Sound Naval Station was actually disposed in the unpermitted landfill in the Gorst Creek ravine. For this reason, we believe the Navy shares liability at the site.

The EPA recently discussed the Site with Rear Admiral Bolivar, Commander of the Navy Region Northwest, to explain the importance of the proposed action and the tribal treaty right implications. Specifically, the Suquamish Tribe has actively participated in the development of a proposed action and has raised concerns about the Site's impact on salmon habitat and the Tribe's downstream fish hatchery. Rear Admiral Bolivar informed us that the landfill is considered a "third party site" because the Navy never owned or controlled the Site, and that such sites are handled by the Navy Litigation Office (NLO).

The NLO maintains the position that Navy liability at the site has not been established. We disagree. The EPA and the Suquamish Tribe are committed to finding a solution for this ongoing threat to health, the ecosystem of the area and to State Highway 3. The EPA is willing to contribute some funding to the action, but the EPA alone cannot implement the action without contribution by the Navy. Accordingly, we are evaluating all available options to secure the Navy's participation including enforcement authorities under section 106 of the Comprehensive

Environmental Response, Compensation and Liability Act (42 U.S.C. § 9606), and section 7003 of the Resource Conservation and Recovery Act (42 U.S.C. § 6973).

The EPA requests a written response from the Navy within 30 days of the date of this letter indicating whether it intends to conduct or contribute to the proposed action. The absence of a written response by this date will be construed as a refusal by the Navy to participate at the Site. Please direct your written response and any questions you may have concerning this letter or the Site to Alex Fidis of my staff at (206) 553-4710 or fidis.alexander@epa.gov. Thank you for your prompt attention to this matter.

Sincerely,



Allyn L. Stern
Regional Counsel
Office of Regional Counsel

cc:

Rear Admiral Bolivar, Commander
Navy Region Northwest
1100 Hunley Road
Silverdale, Washington 98315

Leonard Forsman, Chairman
Suquamish Tribe Tribal Council
P.O. Box 498
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